

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Patent Application

Inventors: Barbara Jean Lagno
et al.

Serial No.: 10/675067

Filing Date: 9/30/2003

Art Unit: 2681

Examiner: Pierre Louis Desir

Docket No.: 630-041US

Title: Level of Service in a Wireless Telecommunications Network

PRE-APPEAL BRIEF

ARGUMENTS

35 U.S.C. 103 Rejection of Claims 1-2, 6, 8-12, 16, 18-21, 25-27, 30-35, 39

Claims 1, 2, 6, 8 through 12, 16, 18 through 21, 25 through 27, 30 through 35, and 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over D.B. Crosbie, U.S. Patent Publication No. 2002/0035699, published March 21, 2002 (hereinafter "Crosbie") in view of Applicant's admitted prior art, which is disclosed in the background section of U.S. Patent Publication No. 2005/0070303 (hereinafter "the applicants' admitted prior art"). The applicants respectfully traverse the rejection.

Referring to **Claim 1** as it appears in the applicants' Office action response mailed on January 26, 2006, nowhere does Crosbie or the applicants' admitted prior art teach or suggest, alone or in combination, what claim 1 recites – namely the transmission of an indication that the third wireless terminal should be able to communicate with the second wireless terminal with the antecedent level of service and at the antecedent location (*i.e.*, the level of service and the location that were introduced in the first part of claim 1).

The Office action dated November 21, 2005 stated:

"Crosbie does not specifically disclose a method comprising transmitting to a third wireless terminal an indication that said third wireless terminal should be able to communicate with said second wireless terminal with said level of service at said location."

The applicants agree with the Examiner on this point.

The same Office action also stated:

"[The applicants' admitted prior art] discloses a method comprising a third wireless terminal being informed [...] that it should be able to communicate with a second wireless network (i.e., WLAN hotspot or access points) [...]."

The applicants do not agree with the Examiner on this point. On this point, the Examiner erred in stating that the applicant's admitted prior art did, in fact, disclose what Crosbie did not. On the contrary, the applicant's admitted prior art that the Examiner refers to discloses the following, per paragraph [0008] of the instant application as filed:

"[...] wireless terminal 201-2's user can be informed that i) the level of service is inadequate at his or her present location and that ii) wireless terminal 201-2 should be move a few feet elsewhere. This task is repeated until the user finds a location with an adequate level of service. [...] The disadvantage of this technique is that the user could be bouncing back and forth from one location to another without converging quickly enough, if at all, on a satisfactory location."

In other words, the method disclosed in the applicants' admitted prior art comprises informing a wireless terminal's user that the current level of service at a current location is inadequate and that the terminal should be moved elsewhere. Even if the prior art method were to suggest the direction in which to move the terminal to find better service, it is up to the user to repeatedly move in various directions until the user finds a location with an adequate level of service. This is not the same as transmitting to a wireless terminal an indication that the wireless terminal should be able to communicate with another wireless terminal with *the* level of service and at *the* location that are defined in the first part of claim 1. Note that the referred-to location, per the first part of claim 1, is where it is determined that a first wireless terminal can communicate with a second wireless terminal with the referred-to level of service (e.g., latency less than 100 milliseconds, throughput greater than two megabits per second, etc.).

In the pending Office action dated February 23, 2006, the Examiner states that "the claim language as recited in claim 1 is broadly interpreted; and as such, the combination of Crosbie and the admitted prior art reads on the claim limitation as written." The applicants respectfully submit that this is not an issue of claims interpretation. Just because the method disclosed in the admitted prior art does one thing under one condition—that is, to inform the wireless terminal that the level of service is inadequate at a first location—one cannot assume that the prior art method does something else under a second condition—that is, to inform the wireless terminal that it should be able to communicate with another

wireless terminal (i) with the level of service and (ii) at the location that were defined in the first part of claim 1.

For these reasons, the applicants respectfully submit that the rejection of claim 1 is traversed. Furthermore, because claims 2, 6, and 8 are dependent on claim 1, the applicants respectfully submit that they too are also traversed.

Now referring to **Claim 9** in the applicants' response mailed on January 26, 2006, nowhere does Crosbie or the applicants' admitted prior art teach or suggest, alone or in combination, what claim 9 recites – namely the transmission of an indication that the second wireless terminal should be able to receive, at the location with which the measurement from the first terminal is associated, the electromagnetic signal of interest with the measurement of the characteristic of interest exceeding a threshold.

The Office action dated November 21, 2005 stated:

Crosbie does not specifically disclose a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal [...].

The applicants agree.

The same Office action also stated:

"[The applicants' admitted prior art] discloses a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal [...]."

The applicants do not agree with the Examiner on this point. On this point, the Examiner erred in stating that the applicant's admitted prior art did, in fact, disclose what Crosbie did not. On the contrary, similarly to the arguments presented above and with respect to claim 1, the prior art method discloses informing a wireless terminal's user of where not to be standing in order to avoid inadequate service, instead of informing of the location where an associated measurement should exceed a threshold. The concept in the present invention is simply not the same thing as the concept in the admitted prior art and is certainly not a mere broader interpretation of the prior art.

For these reasons, the applicants respectfully submit that the rejection of claim 9 is traversed. Furthermore, because claims 10, 11, 12, and 16 depend on claim 9, the applicants respectfully submit that they too are also traversed.

Now referring to **Claim 18** in the applicants' response mailed on January 26, 2006, nowhere does Crosbie or the applicants' admitted prior art teach or suggest, alone or in

combination, what claim 18 recites – namely the transmission of an indication that the second terminal should be able to communicate, at the received location, with the access point such that the access point receives the second electromagnetic signal transmitted by the second terminal with the measurement of the characteristic of interest exceeding a threshold.

The Office action dated November 21, 2005 stated:

Crosbie does not disclose a method comprising receiving a location; and transmitting to a second wireless terminal an indication that said second wireless terminal should be able to communicate at said location with an access point [...].

The applicants agree.

The same Office action also stated:

"[The applicants' admitted prior art] discloses a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal [...]."

The applicants do not agree with the Examiner on this point. On this point, the Examiner erred in stating that the applicant's admitted prior art did, in fact, disclose what Crosbie did not. On the contrary, similarly to the arguments presented above and with respect to claim 1, the prior art method discloses informing a wireless terminal's user of where not to be standing in order to avoid inadequate service, instead of informing of the location where a terminal should be able to communicate with an access point. The concept in the present invention is simply not the same thing as the concept in the admitted prior art and is certainly not a mere broader interpretation of the prior art.

For these reasons, the applicants respectfully submit that the rejection of claim 18 is traversed. Because claims 19, 20, 21, and 25 depend on claim 18, the applicants respectfully submit that they too are traversed.

Now referring to **Claim 26** in the applicants' response mailed on January 26, 2006, nowhere does Crosbie or the applicants' admitted prior art teach or suggest, alone or in combination, what claim 26 recites – namely the transmission of an indication that the third wireless terminal should be able to communicate with the second wireless terminal with the considered level of service at the location of the first wireless terminal. For the reasons described above and with respect to claim 1, the applicants respectfully submit that the rejection of claim 26 is traversed. Because claims 27, 30, and 31 depend on claim 26, the applicants respectfully submit that the rejection of them is also traversed.

Now referring to **Claim 32** in the applicants' response mailed on January 26, 2006, nowhere does Crosbie or the applicants' admitted prior art teach or suggest, alone or in combination, what claim 32 recites – namely the transmission of an indication that the second wireless terminal should be able to receive, at the location with which the measurement from the first terminal is associated, the electromagnetic signal of interest with the measurement of the characteristic of interest exceeding a threshold. For the reasons described above and with respect to claim 9, the applicants respectfully submit that the rejection of claim 32 is traversed. Because claims 33, 34, 35, and 39 depend on claim 32, the applicants respectfully submit that the rejection of them is also traversed.

35 U.S.C. 103 Rejection of Claims 3-5, 7, 13-15, 17, 22-24, 28-29, 36-38

Claims 3 through 5, 7, 13 through 15, 17, 22 through 24, 28 through 29, and 36 through 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Crosbie and the applicants' admitted prior art, in further view of G.G. Reddy et al, U.S. Patent Publication No. 2004/0147254, published July 29, 2004 (hereinafter "Reddy"). For each set of dependent claims, Reddy fails to cure the deficiencies of Crosbie or the applicant's admitted prior art with respect to the corresponding independent claim. Therefore, the applicants respectfully submit that these dependent claims are traversed.

Conclusion

Having responded to each and every ground for objection and rejection in the Office action mailed February 23, 2006, applicants request reconsideration of the instant application pursuant to 37 CFR 1.111 and request that the Examiner allow all of the pending claims and pass the application to issue.

Respectfully,
Barbara Jean Lagno et al.

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